

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GEORGE RIVERA; CARMEN
MARTINEZ,

Plaintiffs,

v.

CALIFORNIA COMMUNITY HOUSING
AGENCY, et al.,

Defendants.

No. 2:21-cv-0651-TLN-CKD PS

ORDER

On June 14, 2021, the court ordered plaintiffs to file proof of service of the summons and the First Amended Complaint—or a waiver of service—for all three named defendants within 60 days. (ECF No. 8.) That deadline has passed, and plaintiffs have not filed any documents regarding service.

Pursuant to Federal Rule of Civil Procedure 4, if a defendant is not timely served, the court--on motion or on its own after notice to the plaintiff--must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Fed. R. Civ. P. 4(m). While the court would be within its discretion to dismiss the complaint in this case (as plaintiff has not shown good cause for the delay), considering plaintiffs' self-represented status and the court's desire to determine this action on the merits, the court on its

own motion grants plaintiffs **an additional 30 days** to effectuate service on the defendants named in plaintiffs' complaint. See Fed. R. Civ. P. 4(m). The claims against any defendant not served within this deadline will be subject to dismissal, absent a timely motion for an extension of time showing good cause for a further extension of the service deadline.

Accordingly, it is HEREBY ORDERED that:

1. Given the lack of appearance by any defendant in this action, the Initial Scheduling Conference currently set for September 15, 2021 at 10:00 AM (ECF No. 2 at 2) is VACATED, to be reset at a later date if appropriate;
2. Plaintiffs are granted an additional thirty (30) days, from the date of entry of this order, to effect service of process on all named defendants, or to obtain a waiver of service from any defendant;
3. Within that 30-day deadline, plaintiffs shall file with the court certificates of service demonstrating that each defendant has been served, or proof of any defendant's waiver of service; and
4. Failure to timely comply with the terms of this order will result in a recommendation that this action be dismissed in whole or in part pursuant to Federal Rules of Civil Procedure 4(m) or 41(b) (authorizing dismissal with prejudice for failure to follow court orders).

Dated: August 20, 2021


CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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